
(2022) 07 PAT CK 0087

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 17273 Of 2021?

M/S Kunwar Enterprises

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 21-07-2022

Acts Referred:

Citation : (2022) 07 PAT CK 0087

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Brisketu Sharan Pandey, Subash Prasad Singh

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

(A). For issuing a writ in the nature of certiorari or any other appropriate writ quashing the Appellate Order dated 30.07.2021 (Annexure – P/1) communicated through letter dated 12.08.2020 bearing Memo No. 2847 passed in Appeal No.26/2016 passed by the Additional Chief Secretary, Industries Department-Cum-Chairman, Bihar Industrial Area Development Authority (BIADA), Patna, Bihar (respondent no.2) whereby and whereunder the appeal preferred by the petitioner against order dated 20.03.2019 has been rejected on non est ground in most illegal and arbitrary manner without application of mind and without appreciating the records of the case.

B. For issuing a writ in the nature of certiorari or any other appropriate writ quashing the order dated 20.03.2019 issued vide memo no.440 by the Executive Director, Bihar Industrial Area Development Authority (BIADA), Regional Office, Muzaffarpur (Respondent No.6) whereby and whereunder the aforesaid Respondent No.6 at the behest and in compliance of direction of Respondent No.5 has passed ex-parte order regarding cancellation of the plot of land bearing

Plot No.V-5 admeasuring 3371 sq. ft. at Industrial Estate / Area, Muzaffarpur allotted in favour of the petitioner and has also forfeited the earnest deposits made by the petitioner for such allotment.

C. For issuing a writ of mandamus granting consequential relief to the petitioner by issuing direction to respondent No.5, 6 for restoring the allotment towards the plot of land bearing Plot No. V-5 admeasuring 3371 sq. ft. at Industrial Area, Muzaffarpur in favour of petitioner which was illegally cancelled by the Respondent No.6.

D. For issuing a writ of mandamus granting consequential relief to the petitioner by issuing direction to Respondent No.5, 6 for treating the forfeited amount to be earnest money deposited by the petitioner as it was prior to the issuance of the impugned order dated 20.03.2019 (Annexure – P/2).

E. For issuing a writ in the nature of mandamus or any other appropriate writ directing the respondents No.2 to 4 to restructure the payment of outstanding dues in such manner that is convenient and beneficial to both the parties and allow the petitioner to run the manufacturing unit at the land allotted to the petitioner vide letter no.1972/D dated 29.11.2012.

F. For issuing a writ in the nature of mandamus or any other appropriate writ staying all further proceedings and consequential actions pursuant to the Appellate Order dated 30.07.2021 (Annexure – P/1 series) (communicated through letter dated 12.08.2020 bearing Memo No.2847 passed in Appeal No.26/2016) passed by the Additional Chief Secretary, Industries Department-cum- Chairman, Bihar Industrial Area Development Authority (BIADA), Patna, Bihar.

G. For issuing a writ in the nature of mandamus or any other appropriate writ directing the respondent No.2 to 6 allow the petitioner to run the manufacturing Unit on the land allotted to the petitioner vide letter no.1972/D dated 29.11.2012 as it is his only source of income for his and his family during the pendency of this case and thereafter.

H. For passing such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case."

Pursuant to our previous order, petitioner has given an undertaking by way of filing a supplementary affidavit. Relevant paragraphs whereof are reproduced as under:-

Learned counsel for BIADA states that petition can be disposed of in terms of the undertaking so furnished.

The undertaking is accepted and taken on record. Consequence of breach thereof, including initiation of proceedings for contempt having violated the undertaking furnished before this Court stands explained to the petitioner through the learned counsel.

As such, petition is disposed of in the following terms:-

- (a) Undertaking of the petitioner dated 11.05.2022 (reproduced supra) is accepted and taken on record;
- (b) Petitioner has been made aware of the consequences of breach thereof, including initiation of proceedings for contempt;
- (c) In the event of default of the undertaking, petitioners shall hand over vacant and peaceful possession of the allotted property to BIADA;
- (d) Liberty reserved to BIADA, to approach this Court, should the petitioner fail to abide by the undertaking furnished before this Court;
- (e) Order dated 30.07.2021 passed by respondent no.2, namely, The Additional Chief Secretary, Industries Department-Cum-Chairman, Bihar Industrial Area Development Authority (BIADA), Patna. Bihar in Appeal Case No.26 of 2016 (Annexure P/1) and the order dated 20.03.2019 passed by respondent no.6, namely, The Executive Director, Bihar Industrial Area Development Authority (BIADA), Regional Office, Muzaffarpur, (Annexure P/2) Patna are quashed and set aside;

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.